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06                   UNITED STATES DISTRICT COURT  
07                   WESTERN DISTRICT OF WASHINGTON  
08                   AT SEATTLE

09 LARRY GENE HEGGEM,   ) CASE NO. C07-1012-MJP-MAT  
10    )  
11 Plaintiff,    )  
12    )  
13 v.    ) ORDER DENYING PLAINTIFF'S  
14 ANDREA MATHERN, et al.,                                    ) THIRD MOTION FOR  
15 Defendants.    ) APPOINTMENT OF COUNSEL  
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14         The Court, having reviewed plaintiff's third motion for appointment of counsel, and the  
15 balance of the record, does hereby find and ORDER:

16         (1)         Plaintiff's third motion for appointment of counsel (Dkt. No. 43) is DENIED. As  
17 plaintiff has been advised on two prior occasions, there is no right to have counsel appointed in  
18 cases brought under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can  
19 request counsel to represent a party proceeding *in forma pauperis*, the Court may do so only in  
20 exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin*  
21 *v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir.  
22 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of

01 success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the  
02 complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

03 Plaintiff has neither demonstrated a likelihood of success on the merits nor shown that, in  
04 light of the complexity of the legal issues involved, he is unable to articulate his claims pro se.  
05 Thus, plaintiff has not demonstrated that this case involves exceptional circumstances which  
06 warrant appointment of counsel at the present time.

07 (2) The Clerk shall send copies of this Order to plaintiff, to counsel for defendant, and  
08 to the Honorable Marsha J. Pechman.

09 DATED this 20th day of May, 2008.

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12 Mary Alice Theiler  
13 United States Magistrate Judge  
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